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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/354,375	07/14/1999	WOLFGANG EIBACH	GE998-058	5076

877 7590 09/02/2004

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
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EXAMINER

AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/354,375

Applicant(s)

EIBACH ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 4-6 stand pending for examination. The Office acknowledges the cancellation of claims 1-3.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moy et al. (USPN 4,864,511) (hereinafter Moy) in view of Wallace et al. (USPN 5,938,708) (hereinafter Wallace).

3. Moy discloses a multitasking operating system (LMU functional software control system) for handling static and dynamic tasks, comprising:

an operating system (LMU functional software control system) for handling static and dynamic tasks (col. 52, lines 22-57);

a dynamic task being destroyed when it completes in order to free system resources used to perform said dynamic task (col. 52, lines 22-33); and

a control task (static task) being suspended rather than destroyed when it completes so that it can be reactivated later when required again without rebuilding needed system resources (col. 52, lines 22-42).

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Moy does not disclose that the operating system is designed for handling motor vehicle tasks. In analogous art (i.e. operating system handling static and dynamic tasks such as event queues and vehicle processes, see abstract) Wallace discloses a multitasking operating system which is designed for use in handling motor vehicle tasks including static control tasks (event queues, designed for a single purpose or function) and telematic tasks (such as vehicle processes) (e.g. abstract; Figure 4; col. 6, lines 57-67). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Moy with Wallace to provide greater throughput by breaking large processes into smaller tasks and executing them separately while waiting for input, thereby increasing efficiency and lowering processing overhead as supported in Wallace (e.g. abstract).

4. Referring to claim 5, Moy discloses a multitasking operating system for handling static and dynamic tasks. Moy does not specifically disclose the control tasks (static tasks) that complete are suspended directly by the kernel of the operating system rather than by a software layer above the kernel. Wallace discloses the control tasks (static tasks) that complete are suspended directly by the kernel of the operating system rather than by a software layer above the kernel (col. 6, lines 57-67). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Moy with Wallace to provide greater throughput by breaking large processes into smaller tasks and executing them separately while waiting for input, thereby

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increasing efficiency and lowering processing overhead as supported in Wallace (e.g. abstract).

5. Claim 6 is rejected for similar reasons as stated above.

Response to Amendment

6. Applicant's arguments filed May 14, 2004 have been fully considered but they are not persuasive.

7. In the remarks, Applicant argues in substance that (1) Moy are non-analogous art with reference to Wallace and the invention.

8. In response to applicant's argument that Moy is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Moy discloses an operating system for handling static and dynamic tasks. The invention in its barest sense, is an operating system handling multiple types of tasks differently. It is believed that one of ordinary skill in the art would not limit themselves to operating systems found only in motor vehicles, but rather in all computing machines, since

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automobiles have on board computers which use the same control processes as regular desktop computers and server machines. By this rationale, the rejection is maintained.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (703) 305-7855. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA
August 30, 2004


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100